U.S. Department of Justice

United States Attorney
Eastern District of New York

One Pierrepont Plaza
Brooklyn, New York 11201

Mailing Address: *147 Pierrepont Street*
Brooklyn, New York 11201

November 9, 2006

The Honorable Nina Gershon
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: **United States v. Shahawar Matin Siraj**
Criminal Docket No. 05-104 (S-1)(NG)

Dear Judge Gershon:

The Government respectfully submits this letter to correct and supplement facts contained within the Presentence Report ("PSR").

In paragraphs 8 and 9, the PSR incorrectly indicates that the confidential informant (the "CI") began to record conversations with the defendant and James Elshafay in April 2004. In fact, the CI first attempted to record conversations with the defendant in May 2004 and first successfully recorded a conversation in June 2004. Trial Trans. at 2185-89.

In paragraph 10, the PSR summarizes the defendant's description to the CI of a proposal by James Elshafay to blow up bridges leading to and from Staten Island. In the government's view, this proposal and the defendant's reaction thereto are sufficiently important to the offense conduct to warrant further discussion. In the spring of 2004, during a conversation in which the defendant stated that he wanted to "do something" in response to United States involvement in Iraq, Elshafay suggested bombing a building in Manhattan, bridges leading to and from Staten Island, and police precincts and a prison. Trial Trans. at 1974-76. The defendant reacted positively to Elshafay's suggestion of violent terrorist attacks, indicating that he knew how to construct an explosive device. Id. at 1975-76. While the defendant expressed some skepticism regarding the viability of Elshafay's idea to attack police precincts and a prison, he indicated that he liked very much Elshafay's plan to bomb the bridges surrounding Staten Island and would take the plan to people who could make it happen. Id. at 1975-77. During the course of this discussion, Elshafay drew a map of Staten Island and the potential bombing targets and provided it to the defendant.[1] Id. at 1976, 1978-79. During a conversation recorded by the government, the defendant subsequently took Elshafay's plan and the hand-drawn map and presented them to the CI as a joint plan forged by the defendant and Elshafay for committing violent terrorist attacks in New York City. See Govt. Exh. 21C, Disc 2, Conversation 3, page 12, line 6 (transcript of conversation); Trial Trans. at 2965-66. After that conversation, the defendant retained the map drawn by Elshafay until it was seized from him upon his arrest on August 27, 2004. See PSR, ¶ 22.

In paragraph 12, the PSR incorrectly indicates that the 34th Street subway station that the defendant conspired to bomb is also known as Pennsylvania Station. In fact, the defendant planned to bomb the 34th Street subway station at Herald Square, which shares space with the 33rd Street PATH station. While connected to Pennsylvania Station by a long underground walkway, the 34th Street subway station and 33rd Street PATH station are in a separate location one block away from Pennsylvania Station. Trial Trans. at 1745-46.

In paragraph 13, the PSR correctly indicates that the defendant plotted to bomb subway trains and subway stations at 34th Street, 42nd Street, and 59th Street. In addition, trial testimony and recorded conversations admitted into evidence demonstrate that the defendant also plotted to bomb a subway train as it passed over the Manhattan Bridge between Manhattan and Brooklyn, with the intention of exploding both the train and the bridge. GE 29A, Disc 10, Conv. 1, at 72; Trial Trans. at 2984-91.

On page 6, footnote 2, the PSR correctly indicates that, according to the government's investigation, neither the defendant nor Elshafay ever possessed explosives during the course of the instant offense. It should be noted, however, that the defendant did possess formulae and instructions on bomb construction and detonation. See Govt. Exh. 4, 4A, 5. As proven at trial, the defendant delivered those formulae and instructions to the CI, whom he believed to be a member of a deadly terrorist organization.

---

[1] The map was admitted into evidence at trial as Government Exhibit 6 and is described in the PSR in paragraph 22.

On page 6, footnote 3, the PSR indicates that the defendant and Elshafay wished to cause economic harm and disruption but to avoid killing anyone. However, recordings admitted at trial demonstrate that, while the defendant wished to minimize casualties, he was ready and willing to cause deaths in order to execute his plan. See PSR, ¶ 13 (describing defendant's knowledge that homeless people could die in explosion).

In paragraphs 34 and 35, the PSR provides examples of portions of the defendant's testimony that constituted perjury. In forwarding these examples to the Department of Probation, along with citations to the record, the government merely attempted to provide illustrative examples of the defendant's perjurious testimony, rather than an exhaustive summary. In the government's view, the defendant's testimony regarding the circumstances of his post-arrest statements and his involvement in the charged crimes was false in virtually every respect.

In paragraph 67, the PSR indicates that the defendant lied under oath at an immigration proceeding on August 17, 2004. In addition to the lie described in the PSR, the defendant also committed perjury at that proceeding in falsely claiming fear of returning to Pakistan and lying about his religious affiliation.

The government respectfully requests that the PSR be corrected and expanded as indicated above.

Respectfully submitted,

ROSLYNN R. MAUSKOPF
United States Attorney

By: /s/
Todd Harrison
Marshall L. Miller
Assistant U.S. Attorneys
(718) 254-7580/6421

cc: Martin Stolar, Esq. (by facsimile)
U.S. Probation Officer Mark Gjelaj (by facsimile)